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| Adopted | Rejected |
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## COMMITTEE REPORT

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|------|---|
| YES: | 9 |
| NO:  | 1 |

### MR. SPEAKER:

*Your Committee on* **Roads and Transportation**, to which was referred Senate Bill 339, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1       Page 3, line 9, delete "either".
- 2       Page 3, line 35, delete "driver's" and insert "**driver**".
- 3       Page 4, line 36, delete "number of semester hours of".
- 4       Page 5, delete lines 2 through 16, begin a new paragraph and insert:
- 5       "**(d) The institute shall issue an instructor's license to an**
- 6       **individual:**
- 7       **(1) who:**
- 8               **(A) meets the requirements of subsection (a);**
- 9               **(B) does not have more than the maximum number of**
- 10              **points for violating traffic laws specified by the bureau by**
- 11              **rules adopted under IC 4-22-2; and**
- 12              **(C) has a good moral character, physical condition,**
- 13              **knowledge of the rules of the road, and work history; or**
- 14       **(2) who holds a driver and traffic safety education**
- 15       **endorsement issued by the department of education**
- 16       **established by IC 20-19-3-1 and meets the requirements of**

1           **subdivision (1)(B) and (1)(C).".**

2           Page 5, line 17, before "Only" insert **"The institute shall adopt**  
3 **rules under IC 4-22-2 that specify the requirements, including**  
4 **requirements about criminal convictions, necessary to satisfy the**  
5 **conditions of subdivision (1)(C).".**

6           Page 5, line 19, after "license" insert **"issued under section 8 or 9**  
7 **of this chapter".**

8           Page 5, line 28, after "renewal" insert **"commercial driver**  
9 **training".**

10          Page 5, line 42, delete "School" and insert **"Commercial driver**  
11 **training school".**

12          Page 6, line 1, after "applicants" insert **"for licenses".**

13          Page 6, line 1, delete "licensees." and insert **"licensees under this**  
14 **chapter.".**

15          Page 6, line 12, after "a" insert **"commercial driver training".**

16          Page 6, line 15, delete "The" and insert **"A".**

17          Page 8, between lines 32 and 33, begin a new paragraph and insert:

18          "SECTION 4. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A railroad company operating  
20 in this state shall equip every locomotive engine with a whistle and a  
21 bell, maintained in good working order, such as are used by other  
22 railroad companies. Except when approaching a crossing to which an  
23 ordinance adopted under subsection ~~(c)~~ (d) applies, the engineer or  
24 other person in charge of or operating an engine upon the line of a  
25 railroad shall, when the engine approaches the crossing of a turnpike,  
26 public highway, or street in this state, beginning not less than  
27 one-fourth (1/4) mile from the crossings:

28           (1) sound the whistle on the engine distinctly not less than four  
29           (4) times, which sounding shall be prolonged or repeated until the  
30           crossing is reached; and

31           (2) ring the bell attached to the engine continuously from the time  
32           of sounding the whistle until the engine has fully passed the  
33           crossing.

34          **(b) A railroad shall erect and maintain a whistle post in advance**  
35 **of public crossings for the protection of the public and the**  
36 **railroad's employees.**

37          ~~(b)~~ (c) It is unlawful for an engineer or other person in charge of a  
38 locomotive to move the locomotive, or allow it to be moved, over or

1 across a turnpike, public highway, or street crossing if the whistle and  
2 bell are not in good working order. It is unlawful for a railroad  
3 company to order or permit a locomotive to be moved over or across a  
4 turnpike, public highway, or street crossing if the whistle and bell are  
5 not in good working order. When a whistle or bell is not in good  
6 working order, the locomotive must stop before each crossing and  
7 proceed only after manual protection is provided at the crossing by a  
8 member of the crew unless manual protection is known to be provided.

9 ~~(c)~~ **(d)** A city, town, or county may adopt an ordinance to regulate  
10 the sounding of a whistle or the ringing of a bell under subsection (a)  
11 in the city, the town, or the county. However, an ordinance may not  
12 prohibit the sounding of a whistle or the ringing of a bell at a crossing  
13 that does not have an automatic train activated warning signal as set  
14 forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that  
15 prohibits the sounding of a whistle or the ringing of a bell at a crossing  
16 must require that signs be posted at the crossing to warn the public that  
17 trains do not sound whistles or ring bells at that crossing. Before an  
18 ordinance adopted under this subsection goes into effect, the city, town,  
19 or county must receive the written permission of the department to  
20 regulate the sounding or the ringing. The department shall grant  
21 permission only if the department determines, based upon a study  
22 conducted by the department, that the ordinance, as applied to the rail  
23 corridor identified in the ordinance, increases the overall safety of the  
24 corridor for the public. Notwithstanding anything to the contrary in this  
25 subsection, the department shall grant permission to a city or a town to  
26 regulate the sounding of a whistle or the ringing of a bell if the city or  
27 town had an ordinance regulating the sounding of a whistle or the  
28 ringing of a bell that was approved and in effect on January 1, 1991, if  
29 the city or town amended or repealed the ordinance, and if the city or  
30 town adopts a subsequent ordinance on the same subject. In making its  
31 determination during the course of the study, the department shall  
32 consider:

- 33 (1) school bus routes;
- 34 (2) emergency service routes;
- 35 (3) hazardous materials routes;
- 36 (4) pedestrian traffic;
- 37 (5) trespassers;
- 38 (6) recreational facilities;

- 1 (7) trails; and
- 2 (8) measures to increase safety in the corridor, including:
- 3 (A) four (4) quadrant gates;
- 4 (B) median barriers;
- 5 (C) crossing closures;
- 6 (D) law enforcement programs; and
- 7 (E) public education.

8 The study by the department required under this subsection must be  
 9 completed not later than one hundred twenty (120) days after the  
 10 department receives notice of the passage of the ordinance from the  
 11 city, town, or county.

12 ~~(d)~~ (e) Notwithstanding a contrary provision in an ordinance  
 13 adopted under subsection ~~(c)~~, (d), an engineer or other person who is  
 14 operating an engine shall sound the engine's whistle if, in the  
 15 determination of the engineer or other person who is operating the  
 16 engine, an apparent emergency exists.

17 ~~(e)~~ (f) A railroad company and the employees of the railroad  
 18 company are immune from criminal or civil liability for injury or  
 19 property damage that results from an accident that occurs at a crossing  
 20 to which an ordinance described in subsection ~~(c)~~ (d) applies if the  
 21 injury or property damage was proximately caused solely by the  
 22 railroad company and the employees failing to sound a whistle.

23 ~~(f)~~ (g) The Indiana department of transportation shall review  
 24 crossing safety at each crossing to which an ordinance adopted under  
 25 subsection ~~(c)~~ (d) applies not less than one (1) time in a five (5) year  
 26 period.

27 ~~(g)~~ (h) The Indiana department of transportation may not revoke the  
 28 permission granted under subsection ~~(c)~~ (d) for an ordinance.

29 ~~(h)~~ (i) The Indiana department of transportation may create pilot  
 30 railroad crossing safety projects to improve railroad crossing safety."

31 Page 8, between lines 36 and 37, begin a new paragraph and insert:

32 "SECTION 6. IC 9-13-2-42, AS AMENDED BY P.L.41-2006,  
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2008]: Sec. 42. (a) "Dealer" means, except as otherwise  
 35 provided in this section, a person who sells to the general public,  
 36 including a person who sells directly by the Internet or other computer  
 37 network, at least twelve (12) vehicles each year for delivery in Indiana.

38 **The term includes a person who sells off-road vehicles.** A dealer

1 must have an established place of business that meets the minimum  
 2 standards prescribed by the bureau under rules adopted under  
 3 IC 4-22-2.

4 (b) The term does not include the following:

5 (1) A receiver, trustee, or other person appointed by or acting  
 6 under the judgment or order of a court.

7 (2) A public officer while performing official duties.

8 (3) A person who is a dealer solely because of activities as a  
 9 transfer dealer.

10 ~~(4) A person who sells off-road vehicles.~~

11 (c) "Dealer", for purposes of IC 9-31, means a person that sells to  
 12 the general public for delivery in Indiana at least six (6):

13 (1) boats; or

14 (2) trailers:

15 (A) designed and used exclusively for the transportation of  
 16 watercraft; and

17 (B) sold in general association with the sale of watercraft;

18 per year.

19 SECTION 7. IC 9-13-2-150.5 IS ADDED TO THE INDIANA  
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2008]: **Sec. 150.5. "Registered importer" has**  
 22 **the meaning set forth in IC 9-17-2-0.5.**

23 SECTION 8. IC 9-17-2-0.5 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 2008]: **Sec. 0.5. As used in this chapter, "registered importer"**  
 26 **means a person that is:**

27 (1) **registered as an importer with the National Highway**  
 28 **Traffic Safety Administration;**

29 (2) **a licensed dealer currently in good standing with the state;**  
 30 **and**

31 (3) **a validated member of the United States Department of**  
 32 **Homeland Security's Customs-Trade Partnership Against**  
 33 **Terrorism (C-TPAT) administered by the United States**  
 34 **Customs and Border Protection.**

35 SECTION 9. IC 9-17-2-12 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) As used in this  
 37 section, "dealer" refers to a dealer that has:

38 (1) been in business for not less than five (5) years; and

- 1 (2) sold not less than one hundred fifty (150) motor vehicles  
 2 during the preceding year.
- 3 (b) This section does not apply to the following:
- 4 (1) A new motor vehicle or recreational vehicle sold by a dealer  
 5 licensed by the state.
- 6 (2) A motor vehicle or recreational vehicle transferred or assigned  
 7 on a certificate of title issued by the bureau.
- 8 (3) A motor vehicle that is registered under the International  
 9 Registration Plan.
- 10 **(4) A motor vehicle that is titled in the name of a financial**  
 11 **institution, lending institution, or insurance company in**  
 12 **Canada and imported by a registered importer, if:**
- 13 **(A) the registered importer complies with section 12.5(a)**  
 14 **of this chapter; and**
- 15 **(B) section 12.5(d) of this chapter does not apply to the**  
 16 **motor vehicle.**
- 17 **(5) A motor vehicle that is titled in another state and is in the**  
 18 **lawful possession of a financial institution, a lending**  
 19 **institution, or an insurance company, if:**
- 20 **(A) the financial institution, lending institution, or**  
 21 **insurance company complies with section 12.5(b) of this**  
 22 **chapter; and**
- 23 **(B) section 12.5(d) of this chapter does not apply to the**  
 24 **motor vehicle.**
- 25 (c) An application for a certificate of title for a motor vehicle or  
 26 recreational vehicle may not be accepted by the bureau unless the  
 27 motor vehicle or recreational vehicle has been inspected by one (1) of  
 28 the following:
- 29 (1) An employee of a dealer designated by the bureau to perform  
 30 an inspection.
- 31 (2) A military policeman assigned to a military post in Indiana.
- 32 (3) A police officer.
- 33 (4) A designated employee of the bureau.
- 34 (d) A person described in subsection (c) inspecting a motor vehicle,  
 35 semitrailer, or recreational vehicle shall do the following:
- 36 (1) Make a record of inspection upon the application form  
 37 prepared by the bureau.
- 38 (2) Verify the facts set out in the application.

SECTION 10. IC 9-17-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 12.5. (a) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in the name of a financial institution, a lending institution, or an insurance company in Canada and imported by a registered importer without requiring an inspection under section 12(c) of this chapter if the registered importer presents the bureau with the following documentation relating to the motor vehicle:**

**(1) A copy of the registered importer's validation agreement issued by the United States Customs and Border Protection (CBP).**

**(2) A copy of the entry summary issued by the United States Customs and Border Protection (CBP Form 7501).**

**(3) A vehicle history report issued by an independent provider of vehicle history information that includes:**

**(A) the vehicle's title information;**

**(B) the vehicle's odometer readings; and**

**(C) the number of owners of the vehicle.**

**(b) Except as provided in subsection (d), the bureau may accept an application for a certificate of title for a motor vehicle that is titled in another state and is in the lawful possession of a financial institution, a lending institution, or an insurance company if the financial institution, lending institution, or insurance company presents to the bureau a vehicle history report issued by an independent provider of vehicle history information that includes:**

**(1) the motor vehicle's title information;**

**(2) the motor vehicle's odometer readings; and**

**(3) the number of owners of the motor vehicle.**

**(c) A:**

**(1) registered importer; or**

**(2) financial institution, a lending institution, or an insurance company;**

**must maintain a copy of all documentation required by this section for at least ten (10) years.**

**(d) An inspection of a motor vehicle described in subsection (a) or (b) is required under section 12(c) of this chapter if:**

1           **(1) the registered importer; or**  
 2           **(2) the financial institution, lending institution, or insurance**  
 3           **company;**  
 4           **is unable to provide the bureau with the documentation required**  
 5           **by this section."**

6           Page 11, between lines 16 and 17, begin a new paragraph and insert:

7           "SECTION 12. IC 9-22-1-11 IS AMENDED TO READ AS  
 8           FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. An officer who  
 9           finds or is notified of a vehicle or parts believed to be abandoned shall  
 10          attach in a prominent place a notice tag containing the following  
 11          information:

12               (1) The date, time, officer's name, public agency, and address and  
 13               telephone number to contact for information.

14               (2) That the vehicle or parts are considered abandoned.

15               (3) That the vehicle or parts will be removed after:

16                       **(A) thirty-six (36) hours, if the vehicle is located on or**  
 17                       **within the right-of-way of an interstate highway or any**  
 18                       **highway that is designated as part of the state highway**  
 19                       **system under IC 8-23-4; or**

20                       **(B) seventy-two (72) hours, for any other vehicle.**

21               (4) That the person who owns the vehicle will be held responsible  
 22               for all costs incidental to the removal, storage, and disposal of the  
 23               vehicle.

24               (5) That the person who owns the vehicle may avoid costs by  
 25               removal of the vehicle or parts within:

26                       **(A) thirty-six (36) hours, if the vehicle is located on or**  
 27                       **within the right-of-way of an interstate highway or any**  
 28                       **highway that is designated as part of the state highway**  
 29                       **system under IC 8-23-4; or**

30                       **(B) seventy-two (72) hours, for any other vehicle.**

31           SECTION 12. IC 9-22-1-12 IS AMENDED TO READ AS  
 32           FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. If a vehicle or a part  
 33           tagged under section 11 of this chapter is not removed within the  
 34           ~~seventy-two (72) hour~~ **applicable** period, the officer shall prepare a  
 35           written abandoned vehicle report of the vehicle or parts, including  
 36           information on the condition, missing parts, and other facts that might  
 37           substantiate the estimated market value of the vehicle or parts.  
 38           Photographs shall be taken to describe the condition of the vehicle or



1 parts.

2 SECTION 13. IC 9-23-2-7, AS AMENDED BY P.L.184-2007,  
 3 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2008]: Sec. 7. (a) Except as provided in subsections (b)  
 5 through (g), the secretary of state shall issue an offsite sales license to  
 6 a dealer licensed under this chapter who submits an application for the  
 7 license not later than ten (10) business days or two (2) calendar weeks  
 8 before the offsite sale date. License applications under this section shall  
 9 be made public upon the request of any person.

10 (b) The secretary of state may not issue an offsite sales license to a  
 11 dealer who does not have an established place of business within  
 12 Indiana.

13 (c) The secretary of state may not issue an offsite sales license to a  
 14 licensed dealer proposing to conduct the sale outside a radius of twenty  
 15 (20) miles from its established place of business. This subsection does  
 16 not apply to:

- 17 (1) new manufactured housing dealers;
- 18 (2) recreational vehicle dealers; ~~or~~
- 19 (3) a rental company that is a dealer conducting a sale at a site
- 20 within twenty (20) miles of any of its company owned affiliates;
- 21 **or**
- 22 **(4) off-road vehicle dealers.**

23 (d) A vehicle display is not considered an offsite sale if it is  
 24 conducted by a new vehicle franchised dealer in an open area where no  
 25 sales personnel and no sales material are present.

26 (e) The secretary of state may not issue an offsite sales license to a  
 27 licensed dealer proposing to conduct the offsite sale for more than ten  
 28 (10) calendar days.

29 (f) As used in this subsection, "executive" has the meaning set forth  
 30 in IC 36-1-2-5. The secretary of state may not issue an offsite sales  
 31 license to a licensed dealer if the dealer does not have authorization  
 32 that the offsite sale would be in compliance with local zoning  
 33 ordinances or other local ordinances. Authorization under this  
 34 subsection may only be obtained from the following:

- 35 (1) If the offsite sale would be located within the corporate
- 36 boundaries of a city or town, the executive of the city or town.
- 37 (2) If the offsite sale would be located outside the corporate
- 38 boundaries of a city or town:

1 (A) except as provided in clause (B), the executive of the  
2 county; or

3 (B) if the city or town exercises zoning jurisdiction under  
4 IC 36-7-4-205(b) over the area where the offsite sale would be  
5 located, the executive of the city or town.

6 (g) The secretary of state may not issue an offsite sales license to a  
7 licensed dealer who has held more than three (3) nonconsecutive  
8 offsite sales in the year ending on the date of the offsite sale for which  
9 the current license application is being submitted.

10 (h) The requirements of section 2(c) of this chapter do not apply to  
11 the application or issuance of an offsite sales license under this section.

12 SECTION 15. IC 9-24-6-4.5 IS ADDED TO THE INDIANA CODE  
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
14 JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 4.5. (a) An employer  
15 that is a motor carrier (as defined in IC 8-2.1-17-10) engaged in the  
16 business of the transportation of property may provide:**

17 **(1) an advance of wages not yet earned or business expenses  
18 not yet incurred to the holder of a commercial driver's license  
19 issued according to rules adopted pursuant to section 2 of this  
20 chapter; and**

21 **(2) take as a deduction from subsequent wages earned by the  
22 holder of the commercial driver's license the amount of the  
23 advance that exceeds the amount that is substantiated with a  
24 receipt or other appropriate documentary evidence that  
25 complies with the requirements applicable to a  
26 reimbursement or other expense allowance arrangements  
27 under 26 U. S.C. 62(c).**

28 **(b) The amount of the advance, in accordance with this section,  
29 deducted from subsequent wages earned by the holder of the  
30 commercial driver's license is not considered an invalid assignment  
31 of wages if the following conditions are satisfied:**

32 **(1) The advance is made at the request of the holder of the  
33 commercial driver's license.**

34 **(2) The motor carrier employer provided notice to the holder  
35 of the commercial driver's license that the amount advanced  
36 may be deducted from a subsequent wage statement to the  
37 extent that the amount of the advance exceeds the amount  
38 substantiated under this section."**

- 1 Page 12, between lines 35 and 36, begin a new paragraph and insert:
  - 2 "SECTION 19. [EFFECTIVE JULY 1, 2008] **(a) Notwithstanding**
  - 3 **IC 9-13-2-42, as amended by this act, a person who engages in the**
  - 4 **business of selling at least twelve (12) off-road vehicles to the**
  - 5 **general public each year for delivery in Indiana whose business**
  - 6 **name begins with the letters A through L, inclusive, is not required**
  - 7 **to apply for a dealer's license under IC 9-23-2 with the bureau of**
  - 8 **motor vehicles until the month in 2009 required by IC 9-23-2-8.**
  - 9 **(b) This SECTION expires December 31, 2009."**
  - 10 Page 12, line 37, after "IC 9-13-2-80;" insert "IC 9-23-0.5-1;"
  - 11 Renumber all SECTIONS consecutively.
- (Reference is to SB 339 as printed January 23, 2008.)

**and when so amended that said bill do pass.**

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Representative Austin